

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY BACON,)	
)	
Petitioner,)	Civil Action No. 2:20-cv-544
)	
v.)	Judge Robert J. Colville
)	Magistrate Judge Lisa Pupo Lenihan
LEE ESTOCK and THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

ORDER OF COURT

Before the Court is the Petition for Writ of Habeas Corpus (ECF No. 6) filed by Petitioner Gregory Bacon. On April 2, 2021, the Honorable Lisa Pupo Lenihan issued a Report and Recommendation (ECF No. 8) in which she recommended that the Petition for Writ of Habeas Corpus be dismissed as an unauthorized second or successive petition over which this Court lacks jurisdiction and that a certificate of appealability be denied. Objections to Judge Lenihan's Report and Recommendation were due by April 19, 2021. No objections were filed, and the matter is now ripe for disposition.

The district court must make a *de novo* determination of those portions of the Report and Recommendation to which objections are made. 28 U.S.C. § 636(b)(1)(C); *see also Henderson v. Carlson*, 812 F.2d 874, 877 (3d Cir. 1987). This Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district court judge may also recommit the matter to the magistrate judge with instructions.

Upon review of the April 2, 2021 Report and Recommendation and Petitioner's Petition and Brief in Support (ECF No. 7), as well as a review of the entire record in this matter, it is hereby ORDERED as follows:

The Court accepts and adopts Judge Lenihan's Report and Recommendation as the opinion of the Court. It is hereby ORDERED that Petitioner's Petition for Writ of Habeas Corpus is DISMISSED as an unauthorized petition over which this Court lacks jurisdiction. The Court finds that, because Petitioner has not made a substantial showing of the denial of a constitutional right or shown that jurists of reason would disagree that his Petition is an unauthorized second or successive petition, Petitioner is not entitled to the issuance of a certificate of appealability. Accordingly, it is hereby further ORDERED that a certificate of appealability is DENIED.

The denial of a certificate of appealability does not prevent Petitioner from appealing the order denying his petition so long as he seeks, and obtains, a certificate of appealability from the court of appeals. *See* Fed.R.App.P. 22(b)(1), (2). IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure. The Clerk of Court shall mark this case CLOSED.

BY THE COURT:

/s/ Robert J. Colville
Robert J. Colville
United States District Judge

Dated: April 22, 2021

cc:

Gregory Bacon
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